

AMENDED IN ASSEMBLY MARCH 3, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 228

Introduced by Assembly Member Leslie

January 29, 2003

An act to amend Sections 52122, 52123, 52124, 52124.5, and 52126 of the Education Code, relating to class size.

LEGISLATIVE COUNSEL'S DIGEST

AB 228, as amended, Leslie. Class size reduction.

Existing law establishes the Class Size Reduction Program in which participating school districts are provided funding for reducing class size to a ratio of 20 pupils to 1 teacher in kindergarten and any of grades 1 to 3, inclusive. Existing law allows certain small school districts to determine the average class size on a schoolsite basis rather than on an individual class basis if the ratio of pupils to teacher in any class included in the average does not exceed the 20 to 1 ratio by more than 2 pupils.

This bill would allow all school districts to determine average class size on a participating schoolsite basis in the same manner as certain small school districts and would ~~not prohibit the class size from exceeding 22 pupils on a particular day~~ *allow a class to maintain an annual average class size ratio of 22 pupils to 1 teacher provided that the annual participating schoolsite average class size does not exceed 20 pupils to 1 teacher.*

This bill would make technical and conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 52122 of the Education Code is amended to read:

52122. (a) Except as otherwise provided by Section 52123, a school district that maintains kindergarten or any of grades 1 to 3, inclusive, may apply to the Superintendent of Public Instruction for an apportionment to implement a class size reduction program in that school district in kindergarten and any of grades 1 to 3, inclusive.

(b) An application submitted pursuant to this chapter shall identify both of the following:

(1) Each class that will participate in the Class Size Reduction Program.

(2) For each class that will participate in the Class Size Reduction Program, whether that class will operate under Option One or Option Two:

(A) (i) Option One: A school district shall provide a reduced class size for all pupils in each classroom for the full regular schoolday in each grade level for which funding is claimed. For the purposes of this chapter, “full regular schoolday” means a substantial majority of the instructional minutes per day, but shall permit limited periods of time during which pupils are brought together for a particular phase of education in groups that are larger than 20 pupils per certificated teacher. It is the intent of the Legislature that those limited periods of time be kept to a minimum and that instruction in reading and mathematics not be delivered during those limited periods of time.

(ii) The purpose of the Class Size Reduction Program is to ensure that children in public school in kindergarten and grades 1 to 3, inclusive, receive instruction in classrooms where there are not more than 20 pupils. In order to qualify for funding pursuant to this chapter, each class in the Class Size Reduction Program shall be maintained with an annual participating schoolsite average class size of not more than 20 pupils for the instructional time that qualifies the class for funding pursuant to this chapter.

(B) (i) Option Two: A school district shall provide a reduced class size for all pupils in each classroom for at least one-half of the instructional minutes offered per day in each grade level for which funding is claimed. A school district selecting this option

1 shall primarily devote those instructional minutes to the subject
2 areas of reading and mathematics.

3 (ii) The purpose of the Class Size Reduction Program is to
4 ensure that children in public school in kindergarten and grades 1
5 to 3, inclusive, receive instruction in classrooms where there are
6 not more than 20 pupils. In order to qualify for funding pursuant
7 to this chapter, each class in the Class Size Reduction Program
8 shall be maintained with an annual participating schoolsite
9 average class size of not more than 20 pupils for the instructional
10 time that qualifies the class for funding pursuant to this chapter.

11 (c) A school district that intends to implement or continue to
12 implement a class size reduction program shall submit an
13 application for funding pursuant to this chapter to the
14 Superintendent of Public Instruction not later than 90 days after
15 the annual Budget Act is chaptered, unless otherwise specified in
16 regulations adopted by the State Board of Education.

17 (d) Any school district that reduces class size through the use
18 of an early-late instructional program is ineligible to use Section
19 46205, relating to the computation of instructional time for
20 purposes of the Incentive for Longer Instructional Day and Year,
21 in any grade level for which class size reduction funding is
22 received pursuant to this chapter. Any school district that operated
23 under Section 46205 prior to July 1, 1996, may receive class size
24 reduction funding pursuant to Option One in any grade level for
25 which class size reduction funding would otherwise be received
26 pursuant to Option One.

27 (e) For purposes of subparagraphs (A) and (B) of paragraph (2)
28 of subdivision (b), “class” is ~~defined as follows:~~

29 ~~(1) “Class” is a group of pupils scheduled to report regularly~~
30 ~~at a particular time to a particular teacher.~~

31 ~~(A)–~~

32 ~~(1)~~ If the type of teaching in kindergarten and grades 1 to 3,
33 inclusive, occurs other than in self-contained classes, the “class”
34 is the basic homeroom for the pupil where all of the following
35 apply:

36 ~~(i)–~~

37 (A) Attendance is recorded and investigation of absences is
38 instigated.

39 ~~(ii)–~~

40 (B) The pupil has an assigned desk, locker, or drawer.

1 ~~(iii)–~~

2 (C) The teacher handles the administrative routines such as
3 keeping cumulative records, collecting basic data about the child,
4 distributing items to be given to the parent or guardian of the pupil,
5 collecting lunch money, and distributing and collecting report
6 cards.

7 ~~(iv)–~~

8 (D) The teacher is the usual contact for the parent or guardian
9 of the pupil.

10 ~~(v)–~~

11 (E) Some planned instruction is given.

12 ~~(B)–~~

13 (2) For kindergarten and grades 1 to 3, inclusive, the meeting
14 of a specific group of pupils for a particular period or periods for
15 ~~instruction by two or more teachers or for an extracurricular school~~
16 activity, is not considered a “class.”

17 ~~(f) This chapter does not prohibit the class size from exceeding~~
18 ~~22 pupils on any particular day, if the average class size for the~~
19 ~~school year does not exceed 20.~~

20 *(f) A class may have an annual average class size ratio that*
21 *does not exceed 22 pupils to 1 teacher if the annual participating*
22 *schools site average class size does not exceed a ratio of 20 pupils*
23 *to 1 teacher. Nothing in this chapter shall be construed to prohibit*
24 *the class size from exceeding 20 pupils on a particular day,*
25 *provided that the participating schools site average class size for the*
26 *school year does not exceed 20.*

27 (g) For purposes of this chapter, average class size is
28 determined by calculating the total number of pupils at a schoolsite
29 who are enrolled in classes at all grade levels that participate in the
30 Class Size Reduction Program divided by the total number of
31 classes at the schoolsite at all grade levels that participate in the
32 ~~class~~ Class Size Reduction Program.

33 SEC. 2. Section 52123 of the Education Code is amended to
34 read:

35 52123. The application of a school district for funding to
36 implement a program pursuant to this chapter shall include
37 certification of each of the following items as a condition to
38 receiving an apportionment under Section 52126:

1 (a) Certification of the number of classes in each eligible grade
2 level selected for a class size reduction apportionment pursuant to
3 this chapter.

4 (b) Certification of pupil enrollment, as of October of the
5 previous calendar year, in each class selected for class size
6 reduction pursuant to subdivision (a). Classes comprised of special
7 education pupils enrolled in special day classes on a full-time basis
8 may not be included in this program. A school district may not
9 claim funding pursuant to this chapter for a pupil who is enrolled
10 in independent study pursuant to Article 5.5 (commencing with
11 Section 51745) of Chapter 5 of Part 28 for the full regular
12 schoolday nor may a school district claim funding pursuant to this
13 chapter for a pupil for any portion of the full regular day that the
14 pupil is enrolled in independent study pursuant to that article. A
15 charter school may not claim funding pursuant to this chapter for
16 a pupil who is enrolled in a program of home study for the full
17 regular schoolday nor may a charter school claim funding for a
18 pupil for any portion of the full regular schoolday that the pupil is
19 enrolled in a program of home study.

20 (c) (1) Certification that a certificated teacher has been hired
21 by the school district and is providing direct instructional services
22 to each class selected for class size reduction pursuant to this
23 chapter and that there are not more than an average at the
24 participating schoolsite of 20 pupils per each class.

25 (2) For the purposes of this subdivision, “class” is defined
26 pursuant to subdivision (e) of Section 52122.

27 (d) Certification that the school district has a staff development
28 program pursuant to Section 52127 and that the program has been
29 approved by the governing board of the school district.

30 (e) Certification that the school district will collect and
31 maintain any data required by the Superintendent of Public
32 Instruction that will aid in the evaluation of the Class Size
33 Reduction Program. The data shall include, but not be limited to,
34 individual test scores or other records of pupil achievement. Data
35 collected shall be protected in a manner that will not permit the
36 personal identification of any pupil or parent.

37 (f) Certification that each class reduced pursuant to this chapter
38 is housed in either a separate, self-contained classroom or that the
39 space of each class for each grade level at that schoolsite provides
40 a square footage per pupil enrolled in each class that is not less than

1 the average square footage per pupil enrolled in those grade levels
2 at that schoolsite in the 1995–96 school year.

3 SEC. 3. Section 52124 of the Education Code is amended to
4 read:

5 52124. (a) A school district that implements a class size
6 reduction program pursuant to this chapter is subject to this
7 section.

8 (b) A school district may establish a program to reduce class
9 size in kindergarten and grades 1 to 3, inclusive, and that program
10 shall be implemented at each schoolsite according to the following
11 priorities:

12 (1) If only one grade level is reduced at a schoolsite, the grade
13 level shall be grade 1.

14 (2) If only two grade levels are reduced at a schoolsite, the
15 grade levels shall be grades 1 and 2.

16 (3) If three grade levels are reduced at a schoolsite, those grade
17 levels shall be kindergarten and grades 1 and 2 or grades 1 to 3,
18 inclusive. Priority shall be given to the reduction of class sizes in
19 grades 1 and 2 before the class sizes of kindergarten or grade 3 are
20 reduced.

21 (4) If four grade levels are reduced at a schoolsite, those grade
22 levels shall be kindergarten and grades 1 to 3, inclusive. First
23 priority shall be given to the reduction of class sizes in grades 1 and
24 2, second priority shall be given to the reduction of class size in
25 kindergarten and grade 3. This paragraph shall be operative only
26 in those fiscal years for which funds are appropriated expressly for
27 the purposes of this paragraph.

28 (c) It is the intent of the Legislature to continue to permit the
29 use of combination classes of more than one grade level to the
30 extent that school districts are otherwise permitted to use that
31 instructional strategy. However, any school district that uses a
32 combination class in any class for which funding is received
33 pursuant to this chapter may not claim funding pursuant to this
34 chapter if the total number of pupils in the combination class,
35 regardless of grade level, exceeds an average of 20 pupils per
36 certificated teacher assigned to provide direct instructional
37 services.

38 (d) The governing board of a school district shall certify to the
39 Superintendent of Public Instruction that it has met the
40 requirements of this section in implementing its class size

1 reduction program. If a school district receives funding pursuant
2 to this chapter but has not implemented its class size reduction
3 program for all grades and classes for which it received funding
4 pursuant to this chapter, the Superintendent of Public Instruction
5 shall notify the Controller and the school district in writing and the
6 Controller shall deduct an amount equal to the amount received by
7 the school district under this chapter for each class at a
8 participating schoolsite that the school district failed to reduce to
9 an average class size of 20 or less pupils from the school district's
10 next principal apportionment or apportionments of state funds to
11 the district, other than basic aid apportionments required by
12 Section 6 of Article IX of the California Constitution.

13 SEC. 4. Section 52124.5 of the Education Code is amended
14 to read:

15 52124.5. (a) The Controller shall include instructions,
16 appropriate to the enforcement of subdivision (d) of Section
17 52124, in the audit guide or supplement to the audit guide required
18 by subdivision (a) of Section 14502.1. These instructions shall
19 include, but not necessarily be limited to, procedures for
20 determining if the annual participating schoolsite average class
21 enrollment exceeds 20.4 for classes for which funding is provided
22 to a school district pursuant to this chapter. The procedures to
23 determine average class enrollment shall include criteria for
24 employing sampling which will satisfy both of the following:

25 (1) The number of classes to be reviewed shall be based on
26 auditor judgment, but the selection of classes shall be done
27 randomly.

28 (2) For each class selected, the sample shall include at least 15
29 days randomly selected from all instructional days which occurred
30 between the first day of instruction and April 15, inclusive, of the
31 school year.

32 (b) (1) If the auditor concludes from the sample, based on his
33 or her professional judgment, that average class size for the
34 sampled classes is more than 20.4 when averaged over a period
35 from the first day of instruction to April 15 of the school year, then
36 the auditor shall conduct a more in depth review. The in depth
37 review shall be either of the following:

38 (A) A review of all instructional days for all classes for which
39 a district has requested funding pursuant to Section 52126.

(B) A randomly selected sample of all classes and instructional days of sufficient size and designed in ~~such~~ a manner that the class size for each class, when averaged over the period from the first day of instruction to April 15, that the auditor can conclude that the average daily class size does not exceed 20 with an error of no more than 0.4 rate at 95 percent degree of confidence.

(2) The school district shall make the determination as to which of the two in depth review methods set forth in ~~subparagraph (A) of paragraph (1)~~ *subdivision (b)* shall be used.

SEC. 5. Section 52126 of the Education Code is amended to read:

52126. The amount of funding that each school district implementing a class size reduction program pursuant to this chapter is eligible to receive shall be computed as follows:

(a) If a school district applies to participate in Option One, pursuant to subparagraph (A) of paragraph (2) of subdivision (b) of Section 52122, the Superintendent of Public Instruction shall apportion to the applicant school district an amount equal to eight hundred dollars (\$800) for each pupil actually enrolled in the classes in which the school district implements the program, except that the maximum number of pupils for which a school district may claim funding for any class at a participating schoolsite may not exceed an average class size of 20. The number of pupils claimed pursuant to this subdivision shall be pupils actually enrolled in classes participating in the Class Size Reduction Program.

(b) If a school district applies to participate in Option Two, pursuant to subparagraph (B) of paragraph (2) of subdivision (b) of Section 52122, the Superintendent of Public Instruction shall apportion to the applicant school district an amount equal to four hundred dollars (\$400) per pupil actually enrolled in the classes in which the school district implements the program, except that the number of pupils in any class for which a school district may claim funding for the instructional minutes offered at a participating schoolsite may not exceed an average class size of 20. The number of pupils claimed pursuant to this subdivision shall be pupils actually enrolled in classes participating in the Class Size Reduction Program.

1 (c) The per pupil amount set forth in subdivisions (a) and (b)
2 shall be increased annually for inflation by the percentage change
3 determined pursuant to subdivision (b) of Section 42238.1.

4 (d) Except for the advance apportionment, the Superintendent
5 of Public Instruction shall apportion funds to a school district only
6 after certification that its class size reduction program has been
7 implemented for that fiscal year.

8 (e) The Superintendent of Public Instruction shall apportion
9 funds for this program in the following manner:

10 (1) An advance apportionment shall be made following
11 passage of the annual Budget Act. This apportionment shall be
12 provided to all school districts that participated in the program in
13 the prior fiscal year and shall be limited to 25 percent of the amount
14 computed by multiplying the appropriate per pupil stipends times
15 the actual enrollment in each participating class in the prior fiscal
16 year, as reported by the district pursuant to subdivision (d) of
17 Section 52124.

18 (2) Each year an apportionment to all applicants shall be made
19 following receipt of applications submitted pursuant to Section
20 52123, adjusted as necessary by the amount received pursuant to
21 paragraph (1). If a school district that participated in this program
22 in the prior fiscal year fails to submit an application, all funds
23 apportioned to that school district pursuant to paragraph (1) shall
24 be deducted from the next monthly principal apportionment
25 payment received by the district.

26 (3) A final adjustment to the amounts paid pursuant to
27 paragraph (2) shall be made following receipt of the actual
28 enrollment in each participating class, to be reported by each
29 school district pursuant to subdivision (d) of Section 52124.

30 (f) Irrespective of the amount that a school district receives
31 pursuant to subdivision (a) on the basis of the application it makes
32 under Section 52123, that district may not retain any funds it
33 receives for any class that does not actually meet all of the
34 requirements of the Class Size Reduction Program.

35 (g) It is the intent of the Legislature that the total statewide
36 amount computed for the purposes of this chapter pursuant to this
37 section, commencing with the 1997–98 fiscal year, be

- 1 appropriated to the Superintendent of Public Instruction in the
- 2 annual Budget Act.

O

